

 <p style="text-align: center;">ADMINISTRATIVE POLICIES AND PROCEDURES State of Tennessee Department of Correction</p>	Index #: 404.07	Page 1 of 9
	Effective Date: June 15, 2008	
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Approved by: George M. Little		
Subject: MINIMUM CUSTODY PLACEMENT		

- I. AUTHORITY: TCA 4-3-603, 4-3-606, 40-28-123, 40-35-213, 40-43-101 through 40-43-504, 41-21-208, 41-21-227, 41-21-509, 41-21-510, and 41-21-514.
- II. PURPOSE: To establish standard criteria and procedures for minimum custody classification.
- III. APPLICATION: To the Assistant Commissioner of Operations, Director of Classification Programs, and employees and inmates of the Tennessee Department of Correction (TDOC) and privately managed facilities.
- IV. DEFINITIONS:
 - A. Commissioner's Designee (CD): TDOC employee(s) authorized by the Commissioner to serve as the approving authority for specific actions occurring at privately managed facilities. In the absence of the CD, the contract monitor (CM) assigned to that facility will serve that function. In the absence of both the CD and CM at privately managed facilities, the necessary notification/request for authorization will be made by telephone to the CD. If the CD is not reachable via phone, the CM will be contacted. If both the CD and CM are unavailable by telephone, the ranking shift officer at Turney Center Industrial Prison (TCIP) shall be contacted for required authorizations or notifications.
 - B. Custody Assessment Form (CAF): An objective numeric scale for rating risk used to assign a custody level (TOMIS conversation LCLN, Option 1)
 - C. Earliest Release Date: The earliest date, excluding the A safety valve date, at which an inmate can be considered for release on parole, probation, or expiration of sentence. This includes new parole hearing dates set by the Board of Probation and Parole (BOPP) after the release eligibility date (RED).
 - D. Felony: Any violation of law for which the penalty levied may be imprisonment of one year or more in the penitentiary or imposition of the death penalty. (TCA 39-1-103 and 40-35-211).
 - E. Minimum Direct: A custody level for inmates that allows them to be housed and to complete tasks outside the secure perimeter of an institution while under continuous supervision.
 - F. Minimum Restricted: A custody level for inmates who are suitable for minimum supervision within secure confinement but who may not meet the criteria for minimum direct or trusty assignment.

Effective Date: June 15, 2008	Index # 404.07	Page 2 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

- G. Minimum Security Housing: A facility with a fenced, unarmed perimeter that is specifically designated to house minimum direct or trusty inmates (i.e., boot camp, technical violators unit, and institutional annexes).
- H. Minimum Trusty: A custody level for inmates that allows them to be housed and complete tasks (including work) outside the secure perimeter of an institution while under periodic supervision.
- I. Non-Violent Offense: Offenses that do not involve bodily injury or death to a victim or bystander, or the use of a weapon. (See *Classification Users Guide*, Appendix VI.)
- J. Special Alternative Incarceration Unit (SAIU) or Boot Camp: A highly regimented, short-term, military style program for selected non-violent inmates. (TCA 40-20-201)
- K. Technical Violator Unit: A minimum-security, short-term incarceration program for technical probation or parole violators who have no new felonies.
- L. Term: Felony conviction(s) for which a person serves at least 30 days incarcerated in a county jail or workhouse, municipal correction house, or any penal institution either within or outside the jurisdiction of the Tennessee Department of Correction.
- V. POLICY: Inmates shall be classified to the least restrictive custody level consistent with the safety of the public, institutional staff, and other inmates.
- VI. PROCEDURES: The following are general mandates regarding the classification, housing, and/or program assignment of minimum custody inmates.
 - A. Inmates to be considered for minimum custody shall:
 - 1. Score within the minimum custody range on the Custody Assessment Form (CAF), or
 - 2. Be approved for a decrease override which results in minimum custody (per Policy #401.06), or
 - 3. Be selected for and assigned to the Special Alternative Incarceration Unit (SAIU, - boot camp) or the Technical Violator Unit (Parole/Probation) as minimum direct status, or
 - 4. Have been granted parole and be within one year of the release date that has been approved by the BOPP.
 - B. A criminal conviction record shall be available on TOMIS or in the inmate's institutional record prior to classification to minimum direct or trusty status at the time of initial classification, unless the inmate has been selected for and assigned to the SAIU or to a technical violator unit per Policy #511.02.

Effective Date: June 15, 2008	Index # 404.07	Page 3 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

- C. Classification to minimum direct or trusty status should be considered only when such is necessary for the inmate's current or recommended housing or program assignment.
- D. Inmates who have a history of a diagnosed mental illness shall have had a positive mental health assessment within the 90 days prior to placement in a minimum security housing or in any program that takes place outside of a secure facility (per Policy #113.84). Inmates who have been convicted of a sex offense shall also have a positive mental health assessment within the 90 days prior to placement in a minimum security housing unit or program; however, these inmates are not allowed any job or program assignment within the community, except for a work assignment to TRICOR or any TRICOR facility.
- E. No sex offender, regardless of custody classification, shall be assigned to any work or program assignment within the community, except for a work assignment to TRICOR or any TRICOR facility.
- F. Inmates shall have Assignment of Responsibility, BI0D089, read to them before placement in any minimum direct or trusty status or program. Refusal to sign this form shall be noted on the form and witnessed by the staff member responsible. In accordance with TCA 40-28-123(B)(1), any inmate whose current conviction is the result of any felony (except escape) committed while on any minimum custody status that provides for supervised release programs into the community and/or furloughs, is prohibited from further participation in such community release programs during the remainder of the term of incarceration.
- G. Criteria for classification to minimum direct or trusty custody status [excluding the Charles Bass Correctional Complex (CBCX) Annex which is addressed in Section VI.(I)] are as follows:
 - 1. Less than ten years remain before the inmate's earliest release date, except in cases of convictions for First Degree Murder, which require a period of less than three years to the earliest release date. Any inmate serving a sex offense conviction during the current term of incarceration must have less than seven years remaining before his/her expiration date.
 - 2. No escape or attempted escape from medium or above secure custody (from behind fence, wall, armed escort, etc.) within the last ten years of incarceration, and no escape on record from minimum custody supervision (walk off, trustee, etc.) within the last five years of incarceration.
 - 3. No disciplinary convictions for assaultive conduct that resulted in serious injury or the death of another individual, or any other court prosecuted felony convictions during the past ten years of incarceration.
 - 4. No felony detainers, pending felony charges, or pending immigration deportation actions; misdemeanor detainers shall be evaluated for risk at the discretion of the Warden.

Effective Date: June 15, 2008	Index # 404.07	Page 4 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

- H. Criteria for minimum direct custody for offenders with more than ten years remaining to their earliest release date, or sex offenders with more than seven years remaining to their sentence expiration date are as follows: (Excludes CBCX Annex, WANX)
1. The Warden's written recommendation has been approved by the Assistant Commissioner of Operations and the Commissioner; and
 2. The inmate meets the criteria in VI. (G)(2-4), above
 3. The last 12 months have been served in a secure TDOC facility
 4. FBI Rap Sheet or PSI with criminal conviction record is available on TOMIS or in the inmate institutional file.
 5. Sex offenders shall have successfully completed a TDOC sex offender treatment program (SOTP) and be actively participating in an SOTP aftercare program.
 6. Inmates referenced in VI.(H), above, who were classified to minimum direct or trusty custody on or before November 12, 1996, are grandfathered and may remain in this custody until their conduct or conviction status requires change.
 7. Inmate placements subsequent to November 12, 1996, will be terminated annually unless renewed with required approvals and necessary mental health evaluations in accordance with Policy #113.84; such should occur in a timely fashion, as to cause no delay in the annual reclassification hearing.
- I. Criteria for classification to minimum direct or trusty custody and placement at the CBCX Annex are as follows:
1. Less than five years remain to the inmate's earliest release date for inmates whose current term of incarceration does not include a conviction for a sex-related offense or an offense designated as violent in the *Classification User's Guide*, Appendix VI.
 2. Less than two years remain to an inmate's earliest release date for those inmates whose current term of incarceration includes a conviction for an offense designated as violent in the *Classification User's Guide*, Appendix VI; sex offenders are ineligible unless within 12 months of an approved parole date.
 3. The inmate has been in TDOC physical custody for at least the past 12 months unless:
 - a. The inmate is under conviction for non-violent offenses and has a cumulative sentence of ten years or less; or
 - b. The inmate has been returned to TDOC custody as a probation or parole violator with technical violations only and is ineligible for the Technical Violators Unit.

Effective Date: June 15, 2008	Index # 404.07	Page 5 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

4. No escape or attempted escape on record from medium or above secure custody (from behind fence, wall, armed escort, etc.) within the last ten years of incarceration, and no escape on record from minimum custody supervision (walk off, trustee, etc.) within the last five years of incarceration.
 5. No felony detainers, pending felony charges, or pending immigration deportation actions; misdemeanor detainers shall be evaluated for risk at the discretion of the Warden.
 6. No disciplinary convictions for assaultive conduct that resulted in serious injury or death of another individual, or any other court-prosecuted felony convictions during the past ten years of incarceration.
 7. Inmates housed at the CBCX Annex on or before January 1, 1996, are grandfathered and may remain in such placement until their conduct or conviction status requires change.
 8. An inmate whose current term of incarceration includes a conviction for Murder I may be considered for CBCX Annex assignment if within two years of release eligibility and written approval is granted by the Assistant Commissioner of Operations.
- J. Criteria for classification to minimum direct or trusty and placement in the SAIU program at the Wayne County Boot Camp:
1. Inmates admitted to TDOC via CBCX/BMCX/WTSP classification programs shall be screened for eligibility.
 - a. Inmates who are eligible for SAIU placement consideration include males convicted of non-violent offenses sentenced to the Department for six years or less.
 - b. Inmates convicted of Child Sexual Abuse (TCA 39-15-401 and/or 39-17-402), Sexual Exploitation of a Minor (TCA 39-17-1003, 39-17-1004 and/or 39-17-1005), or the Illegal Distribution of or Sale of a Controlled Substance to a Minor (TCA 39-17-417 and/or 39-17-417(a)) are ineligible for the SAIU program.
 - c. Inmates convicted of certain drug offenses under TCA 39-17-417(a) with a sentence not greater than 12 years are eligible, provided that the amount of controlled substance is less than set forth in TCA 39-17-417(i), and the offender is sentenced in the Especially Mitigated or Standard Range. Cumulative sentences for certain drug offenses and non-drug offenses shall not exceed 12 years. TCA does not establish a maximum sentence length; however, TDOC policy prohibits inmates with sentences greater than 12 years for consideration for SAIU placement. Drug offenders with sentences greater than 12 years may be considered by the Commissioner. (only if recommended in writing by the sentencing judge)

Effective Date: June 15, 2008	Index # 404.07	Page 6 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

- d. Inmates must be 18 years old at the time of approval and must be less than the age of 36. Inmates less than 18 years of age (but who are recommended by the court) will require approval by the Commissioner through the Director of Classification.
 - e. Inmates must be free from obvious physical and psychological impairments that would interfere with the inmate's ability to participate in the program and must meet requirements according to assessments and examinations by staff at reception centers.
 - f. Inmates scheduled for parole hearings within 60 days of initial classification shall not be referred until after a hearing decision is final. Technical parole violators who are serving their first prison sentence and enter TDOC custody with no additional convictions may be considered if they are otherwise eligible.
 - g. Inmates who are beyond their release eligibility and safety valve dates and who were declined parole at their first hearing, may be eligible provided enough sentence time remains to permit program completion and their conduct is free of Class A or B incidents.
2. Inmates are ineligible if the following factors are evident:
- a. BOPP declines parole to sentence expiration
 - b. Have served more than one prior felony term (at least 30 days) in a local jail or workhouse, or have been previously incarcerated in a state or federal correctional facility.
 - c. Have an active felony detainer on record or if there is notice of pending charges. Such matters for misdemeanors will be considered on a case-by-case basis.
 - d. Have a need for special education services
 - e. Have a jail disciplinary record that includes, but is not limited to, threatening, assaultive, or escape behaviors
3. Inmates are required to complete a minimum of 90 days in the SAIU program subsequent to a 30-day period for classification at the reception center. Inmates who have been temporarily absent from the SAIU program:
- a. Due to health reasons may be considered for re-entry provided they have been medically approved for program resumption.
 - b. Due to previously unknown court cases may be considered for return provided the inmate continues to meet eligibility criteria.

Effective Date: June 15, 2008	Index # 404.07	Page 7 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

4. Inmates terminated from the program for conduct reasons shall be transferred to South Central Correctional Facility in order to resume service of the designated sentence.

K. Technical Violators Unit – Probation Criteria

1. In accordance with TCA 40-20-301, technical probation violators may be considered for placement in a unit designated by the TDOC. The law stipulates that:
 - a. In the event an offender receives a suspension of sentence (i.e., probation) and that sentence is revoked for reasons other than the commission of a new felony offense and the offender is committed to the TDOC, the Department shall have the authority to place the offender in a special technical violator unit in lieu of confinement in a regular state penal facility (unless the court specifies otherwise in the order of revocation). If the court specifically prohibits the placement of the offender in a special technical violator unit, the court shall make findings of fact and state the reasons for its decision in the order of revocation. In such a unit the offender shall, at a minimum, be required to participate for a period of 120 days in an intensive regimen of work and available treatment programs in accordance with policies and procedures established by the TDOC.
 - b. No offender shall be placed in a special technical violator unit, unless and until, the offender has been classified by the TDOC as a suitable candidate for such a program in accordance with departmental policies and guidelines.
2. Upon successful completion of a technical violator program, an offender shall be released under probation status to the supervision of the BOPP under the terms and conditions imposed by the trial court. Should an offender fail to comply with the terms and conditions of supervision imposed by the BOPP, the release on probation supervision may be revoked by the trial judge pursuant to TCA 40-35-311.
3. Procedures

BOPP probation officers will forward the names, TOMIS numbers, and locations of technical probation violators to the Division of Community Services at BOPP Central Office. This list, when compiled, will be forwarded to the Division of Classification Programs at TDOC Central Office for inclusion in jail admissions to TDOC reception centers. While Classification Programs staff will attempt to identify technical probation violators to reception center personnel, all eligible inmates will be screened for classification to this program.
4. Program Criteria
 - a. All technical probation violators may be considered for placement in the technical violator program.

Effective Date: June 15, 2008	Index # 404.07	Page 8 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

- b. Technical probation violators may meet eligibility criteria for both the SAIU and the technical violator unit. Those who meet criteria for the SAIU shall be considered for and assigned to that program before being considered for the technical violator unit.
- c. The inmate's probation must have been revoked and the inmate committed to TDOC. The inmate must be a technical violator with no new felony convictions. Inmates locally sentenced or sentenced to a split confinement are ineligible, as are those whose determinate release (i.e., sentence of two years or less) has been revoked to serve to balance of sentence. Violators from community corrections grant programs are ineligible.
- d. Inmates are ineligible for technical violator program assignment if the court objects to such placement in the revocation order.
- e. Active felony detainers, pending felony charges, or pending immigration deportation actions render an inmate ineligible. Misdemeanor detainers or pending charges will be evaluated for risk on a case-by-case basis.
- f. Eligible inmates of all medical classifications should be considered. Reasonable accommodations should be made for those with limitations or disabilities within the scope of the technical violator program, provided that continued placement in the program does not pose a risk to the inmate's physical or mental health. Those unable to participate in the program due to severe medical or mental health needs shall be reassigned to an appropriate unit or facility for non-disciplinary purposes.
- g. Upon completion of the classification process at the reception center, technical violator participants will be assigned to minimum direct custody and override C3DEC shall be used (where applicable) in accordance with Policy #401.06. Inmates assigned to administrative segregation are ineligible for consideration.
- h. An inmate who has completed the SAIU program during a previous incarceration (for a prior offense) may be considered for assignment to the technical violator unit. An inmate who has been released to probation from the SAIU program and violates that probation will not be considered for assignment to the technical violator unit.
- i. Inmates who incur disciplinary convictions while assigned to the technical violator program may receive sanctions which include program extension and/or program termination at the discretion of the Warden. Those terminated for disciplinary reasons shall be reassigned to an appropriate TDOC facility at no less than medium custody and shall not be considered for reassignment to the technical violator program.

Effective Date: June 15, 2008	Index # 404.07	Page 9 of 9
Subject: MINIMUM CUSTODY PLACEMENT		

L. Technical Violators Unit – Parole Criteria

Inmates placed in the technical parole violators unit at the Wayne County Annex must have a program recommendation by the BOPP as the final decision of at least two board members posted on TOMIS/LPDA.

M. At privately managed facilities, the CD shall be the final approving authority in all classification actions which involve custody increase, custody decrease, institutional transfer, or override.

VII. ACA STANDARDS: 4-4296 and 4-4444.

VIII. EXPIRATION DATE: June 15, 2011.